

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
GREENSBORO DIVISION**

BUZZ OFF INSECT SHIELD, LLC, a)
North Carolina limited liability company,)
and INTERNATIONAL GARMENT)
TECHNOLOGIES, LLC, a North)
Carolina limited liability company,)

Plaintiffs,

v.

S.C. JOHNSON & SON, INC.,)
a Wisconsin corporation)

Defendant.

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S.C. JOHNSON & SON, Inc.,)
a Wisconsin corporation,)

Plaintiff,

v.

BUZZ OFF INSECT SHIELD, LLC.,)
a North Carolina limited liability)
company, and INTERNATIONAL)
GARMENT TECHNOLOGIES, LLC., a)
North Carolina limited liability company,)

Defendants.

Civil Action No. 1:05CV00363
Consolidated with
Civil Action No. 1:05CV00739

**BUZZ OFF INSECT SHIELD, LLC AND INTERNATIONAL GARMENT
TECHNOLOGIES, LLC'S MOTION TO CLARIFY AND MODIFY LIMITED
PORTIONS OF PERMANENT INJUNCTION**

Defendants Buzz Off Insect Shield, LLC and International Garment Technologies, LLC (collectively “BOIS”), through counsel, move this Court to clarify and/or modify limited aspects of the Court’s Permanent Injunction (“Injunction”) dated March 6, 2009. This Court expressly retained jurisdiction to “modify this Injunction if appropriate” (Injunction at 3) and noted in the Order accompanying the Injunction that “to the extent some modification of the injunction may be appropriate under the particular circumstances . . . either party may file motions for modification in this case for consideration by the Court.” (March 6, 2009 Order and Memorandum Opinion (“Order”) at 47 n.7.) Pursuant to the Court’s invitation, BOIS hereby moves the Court to clarify and/or modify limited aspects of the Injunction as follows:

- Clarify and/or modify the Injunction to allow BOIS to make non-public, passive use of the <buzzoff.com> domain name for the limited purpose of preserving and redirecting emails inadvertently sent to its old, inactive <buzzoff.com> email addresses, including by (a) generating an automatic response to any email inadvertently sent to an inactive <buzzoff.com> email account, which incorporates a disclaimer like that described in Provision 7 of the Injunction, and (b) redirecting any email inadvertently sent to an inactive <buzzoff.com> email account to its analogous <insectshield.com> account.
- Clarify and/or modify the Injunction to allow BOIS to use the domain name for the soon-to-be inactive website at <buzzoff.com> for the sole additional purpose of passively and automatically redirecting inadvertent

visitors of that site to BOIS's new website at <insectshield.com>, while again displaying a message incorporating the disclaimer language from Provision 7 of the Injunction prior to redirection.

- Clarify and/or modify the Injunction to prohibit use of the "Buzz Off" mark only in connection with sales or marketing of goods and services. Specifically clarify and/or modify the Injunction to allow BOIS to use the company name "Buzz Off Insect Shield, LLC" and the words "Buzz Off," without a disclaimer, in documents unrelated to the sales and marketing of products and services, such as in regulatory filings, private correspondence, and other similar documents where there is a need to do so, to avoid confusion and undue burden.
- Clarify that the Injunction prohibits use of "Buzz Off" only in connection with the products at issue in the present action.
- Clarify that the Injunction only governs use of the "BUZZ OFF" mark in the United States.
- Clarify and/or modify the Injunction to allow BOIS to make limited use of the "BUZZ OFF" mark, including on BOIS' new website located at <insectshield.com>, solely for the limited purpose of providing historical context for its Insect Shield products and the brand transition, such as to provide a short explanation of BOIS' brand name change on the <insectshield.com> website and providing links to old press releases, articles, and public relations clips referring to the previous "Buzz Off"

brand, so long as such limited use, when on BOIS's website, is accompanied by a disclaimer in connection with the use incorporating language like that contained in Provision 7 of the Injunction.

- Clarify that BOIS is required to send the notices described in Provision 5 of the Injunction only to its own active third party manufacturers and distributor customers who have previously received "Buzz Off" brand products.

These requested clarifications and modifications of the Injunction are appropriate under the particular circumstances of this case in order to ensure that the provisions of the Injunction are carried out as intended by the Court without causing any undue confusion to consumers or any undue and unnecessary hardship to BOIS. BOIS submits a Memorandum in Support of the Motion and Affidavit of Haynes G. Griffin in Support of the Motion, filed contemporaneously herewith. A Proposed Order is attached.

Dated: April 3, 2009

By: /s/ Mack Sperling

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BUZZ OFF INSECT SHIELD, LLC and
INTERNATIONAL GARMENT TECHNOLOGIES, LLC

CERTIFICATE OF SERVICE

I hereby certify that on April 3, 2009, I electronically filed the foregoing **BUZZ OFF INSECT SHIELD, LLC AND INTERNATIONAL GARMENT TECHNOLOGIES, LLC'S MOTION TO CLARIFY AND MODIFY LIMITED PORTIONS OF PERMANENT INJUNCTION** and attached **PROPOSED ORDER** with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

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and I hereby certify that I have mailed the documents to the following non CM/ECF participants:

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This the 3rd day of April, 2009.

/s/ Mack Sperling
Mack Sperling